

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Angel Rendon	Team: Team # 1	CCRB Case #: 201107225	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/03/2011 11:07 PM	Location of Incident: § 87(2)(b)	Precinct: 73	18 Mo. SOL 12/3/2012	EO SOL 12/3/2012	
Date/Time CV Reported Sat, 06/04/2011 1:37 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 06/04/2011 1:37 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. CPT Joseph Gulotta	00000	900369	PBBN

Officer(s)	Allegation	Investigator Recommendation
A.CPT Joseph Gulotta	Abuse: CPT Joseph Gulotta entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.CPT Joseph Gulotta	Abuse: CPT Joseph Gulotta searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.CPT Joseph Gulotta	Abuse: CPT Joseph Gulotta damaged § 87(2)(b)'s property.	§ 87(2)(b)
D.CPT Joseph Gulotta	Abuse: CPT Joseph Gulotta refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)

Case Summary

On June 4, 2011, § 87(2)(b) filed the following complaint with the CCRB using the Call Processing System (encl. 4a-4b). On June 6, 2011, § 87(2)(b) called the CCRB and filed a duplicate complaint for the same incident (encl. 4a-4b).

On June 3, 2011, at approximately 11:07 p.m., police officers responded to § 87(2)(b) in Brooklyn. The following allegations resulted:

Allegation A – Abuse of Authority: CPT Joseph Gulotta entered § 87(2)(b) in Brooklyn.

§ 87(2)(g)

Allegation B – Abuse of Authority: CPT Joseph Gulotta searched § 87(2)(b) in Brooklyn.

§ 87(2)(g)

Allegation C – Abuse of Authority: CPT Joseph Gulotta damaged § 87(2)(b)'s property.

Allegation D – Abuse of Authority: CPT Joseph Gulotta refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(g)

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black female, who stands 5'0" tall, weighs 126 lbs. and has brown hair and brown eyes.

CCRB Testimony:

On June 4, 2011, § 87(2)(b) provided an intake statement under the name § 87(2)(b) using the CCRB Call Processing System (encl. 4a-4b). On June 6, 2011, § 87(2)(b) provided a second intake statement under the name § 87(2)(b) (encl. 4a-4b). On June 8, 2011, § 87(2)(b) provided a phone statement (encl. 5a). On July 1, 2011, § 87(2)(b) was interviewed at the CCRB (encl. 5b-5d).

§ 87(2)(g)

On June 3, 2011, at approximately 3:00 p.m., § 87(2)(b) was at her apartment, located at § 87(2)(b) in Brooklyn. From one of her apartment windows, § 87(2)(b) observed approximately two individuals fighting and arguing, a common occurrence in the neighborhood, inside of a courtyard enclosed by § 87(2)(b)'s apartment building and four other buildings in the complex. Several hours later, at approximately 9:30 to 10:00 p.m., § 87(2)(b) who was now standing in the courtyard outside of her building, saw two other individuals, who live in the neighborhood, fighting in the courtyard approximately twenty to thirty feet from the entrance to her building, surrounded by ten to twenty bystanders distributed across either side. In her first intake statement, § 87(2)(b) stated that there was also a shooting near her home. § 87(2)(b) decided to leave the courtyard in order to escape

the commotion. She walked to Maria's Grocery, located on the corner of New Lots Avenue and Mother Gaston Boulevard. § 87(2)(b) did not interact, verbally or physically, with any passersby on her way to and from the store, and did not recall if she purchased anything. The entire trip lasted approximately twenty minutes.

§ 87(2)(b) returned to her apartment building and stood near a wheelchair accessibility ramp, § 87(2)(b)

§ 87(2)(b) observed several people lounging outside in the courtyard and approximately fifty police officers in the immediate vicinity. § 87(2)(b) saw several marked patrol cars, marked patrol vans, and unmarked patrol cars in the area. The individuals who had been fighting earlier were no longer in the area. After standing outside of the building for approximately five minutes, § 87(2)(b) immediately heard two loud "boom" sounds coming from upstairs. § 87(2)(b) and several unidentified female passersby, realized what the sound was immediately. One of the females said, "Bitch, the cops are kicking open your door!" § 87(2)(b) entered the building with § 87(2)(b) § 87(2)(b) (no last name provided), and § 87(2)(b) (no last name provided). They took the elevator to the § 87(2)(b) floor. § 87(2)(b) and § 87(2)(b) remained near the elevator and § 87(2)(b) and § 87(2)(b) approached her apartment door, where anywhere from five to ten uniformed police officers were standing.

§ 87(2)(b) asked what the officers were doing. PO1 (described as a Hispanic male, who stood 5'5" and was dressed in uniform), who was kicking the door to § 87(2)(b)'s apartment, replied, "There are guys in your house with guns. Do you live here?" § 87(2)(b) replied, "Yes, I live here. There's nobody in my house. I have my keys right here." PO1 paused for a moment, and then § 87(2)(b) asked all of the officers, "What's the problem? Do y'all have a warrant?" In her first intake statement, § 87(2)(b) alleged that an officer told her, "We don't need a warrant." In her second intake statement, § 87(2)(b) stated that an officer told her that people had been shooting outside, and that they had run inside her apartment, where narcotics were also being sold. PO1 continued kicking the door until it opened. The officers filed into § 87(2)(b)'s apartment and § 87(2)(b) followed. As the officers entered, § 87(2)(b) asked all the officers for their names and shield numbers. PO3 § 87(2)(b) could not provide a physical description) grabbed her by both arms, pressed her against the wall inside of her apartment, and told her not to move. Then PO3 pulled § 87(2)(b) into the apartment and pressed her against a wall. PO3 asked § 87(2)(b) for identification, which she provided. PO3 examined it, and then told her to leave. § 87(2)(b) could not recall if PO3 checked her identification as well. Most of § 87(2)(b)'s apartment was dark because the lights were not on. Officers asked § 87(2)(b) where the light switches were, and § 87(2)(b) was allowed to leave the wall near the entrance in order to turn on lights for the officers.

The officers spread out to every room in her apartment, which included two bedrooms, a living room, a kitchen, and a bathroom. § 87(2)(b) went to her bedroom, where officers searched underneath her bed, lifted the mattress, entered her closet, and opened and searched all of her dresser drawers. During this time, officers searched the other room, but § 87(2)(b) did not directly observe these actions. § 87(2)(b) only observed the aftermath in each room, because she remained in her bedroom while the other officers searched the rest of her apartment.

In her bedroom, § 87(2)(b) asked CPT Joseph Gulotta (identified by the investigation and described as a white or Hispanic male, who stood 5'8", had a stocky build, had graying hair that was balding, and was dressed in uniform with a white shirt) why the officers were searching her home and attempted to explain that she is not a criminal. CPT Gulotta told § 87(2)(b) "People outside said that you had guns, drugs, and dead bodies in your apartment. Guys who were shooting outside ran into your apartment." CPT Gulotta never made reference to any 911 calls at the location and § 87(2)(b) had no knowledge of

anyone calling 911.

After the search, in her son's bedroom, § 87(2)(b) saw that all of the dresser drawers were pulled out, the mattress had been lifted, drawers built into the bed frame had been pulled out, and the closet was open. In the living room, the couch cushions were lifted, the closet door was open, and the fabric divider between the top of the sofa's frame and the bottom had been torn. In the kitchen, the drawers and cabinets were open. In the bathroom, the lid of the toilet tank had been removed, and the sink and medicine cabinet doors were open. As the officers were walking toward the door to her apartment, § 87(2)(b) announced, "I need to write y'all names down because I need to know everyone who came inside my house." The officers all turned their heads in § 87(2)(b)'s direction but CPT Gulotta replied, "You don't need anyone's name but mine," and then provided his name and the spelling. § 87(2)(b) wrote it down and presented the document, which read "Gulotta," and was dated June 3, 2011 at 10:00 a.m. § 87(2)(b) clarified that she mistakenly wrote a.m. instead of p.m.) In both intake statements, § 87(2)(b) did not state that CPT Gulotta prevented her from obtaining the names and shield numbers of the other officers present. The officers exited. They were in her apartment for approximately eight to ten minutes. § 87(2)(b) was unable to provide descriptions of any of the officers aside from PO1 and CPT Gulotta.

Statements to Medical Providers (encl. 7a-7t):

On § 87(2)(b), § 87(2)(b) sought treatment at § 87(2)(b). § 87(2)(b) stated that she was experiencing anxiety and an upset stomach after officers "burst" into her apartment on June 3, 2011.

Attempts to Contact Civilians

§ 87(2)(g)

NYPD Statements:

Subject Officer: CPT JOSEPH GULOTTA

- CPT Gulotta is a § 87(2)(b)-old white male, who stands 6'0", weighs 270 lbs., and has brown hair and brown eyes.
- On June 3, 2011, CPT Gulotta worked from 5:00 p.m. to 4:00 a.m. on June 4, 2011 and was the executive officer of the 73rd Precinct. CPT Gulotta was assigned as a Total Impact supervisor, which made him responsible for thirty patrol officers out of a total of ninety that comprised the Total Impact unit. CPT Gulotta was dressed in uniform and assigned to unmarked patrol car #838 (described as a blue Chevrolet Impala). CPT Gulotta did not recall who his operator for the day was.

Memo Book

Members of the Service who hold the rank of captain are not required to maintain memo books. Because CPT Gulotta does not maintain a memo book, he had no memo book entries regarding this incident.

CCRB Statement (encl. 6a-6e):

On November 18, 2011 and February 7, 2012, CPT Gulotta was interviewed at the CCRB. § 87(2)(g)

On June 3, 2011, at approximately 11:00 p.m., while en route to the vicinity of § 87(2)(b) where CPT Gulotta was going to establish Total Impact foot posts for thirty police officers under his command, there was a radio run at § 87(2)(b) for either a firearm or a dispute—CPT Gulotta did not recall which. Of the thirty officers under his command, there were two sergeants—SGT Randal Mercier and SGT John Portalatin—and a lieutenant—LT Michael Dipane, who has since retired from the NYPD.

When CPT Gulotta arrived at § 87(2)(b) he observed a large group of approximately thirty civilians yelling at a § 87(2)(b) floor apartment window of § 87(2)(b). The courtyard is surrounded by several apartment buildings. § 87(2)(b) (identified by the investigation and described as a black female) was standing at the open window shouting back down at the crowd gathered outside. Due to limited visibility on account of the time of night, CPT Gulotta was unable to see § 87(2)(b)'s hands, and thus, if she held anything in them. The crowd was divided into two disputing groups, one of which was allied with § 87(2)(b). Upon approaching the crowd, the group allied with § 87(2)(b) retreated into the building. CPT Gulotta did not recall what the people were disputing, but everyone in the crowd reported to him and his officers that the woman had a firearm and that she had pointed it out her window at the crowd. In addition to pointing out § 87(2)(b) and reporting that she had a firearm, members of the group told CPT Gulotta that the window belonged to Apt. § 87(2)(b). Despite not recalling the subject of the dispute, CPT Gulotta recalled that the disputants appeared familiar with one another and the dispute appeared to be long-standing. CPT Gulotta at this time feared for the safety of his officers and the civilians gathered outside that the woman would open fire at the courtyard below her window.

CPT Gulotta decided to take a group of officers to the apartment, enter the apartment (ideally with consent), secure the apartment of possible perpetrators, and execute a protective sweep of plain-view areas of the apartment for any firearms. CPT Gulotta made this decision based on the large number of people who had told him that § 87(2)(b) had a firearm in the apartment, the high rate of gun violence in the area, and the immediate risk that shots would be fired from the window at police officers or civilians. CPT Gulotta had no intention of conducting a full blown search of the apartment.

CPT Gulotta instructed some of the officers under his command to remain downstairs and disperse the crowd and requested an aviation unit to provide rooftop and courtyard security. CPT Gulotta then chose five to six officers to accompany him upstairs to the apartment. CPT Gulotta chose officers at random and did not specifically recall who he chose but did state that it was possible that one of the supervisors mentioned above was in the group. CPT Gulotta did not discuss his plan or intentions with the officers he took upstairs. CPT Gulotta and five to six other officers entered § 87(2)(b). CPT Gulotta had only remained in the courtyard for a “short time” but he could not approximate the time duration.

The officers went to the § 87(2)(b) floor and knocked several times on the door to the apartment. The officers gave repeated commands that the individual inside open the door. There was complete silence on the other side of the door. The officers knocked and provided commands that the door be opened for a period of time that CPT Gulotta was unable to approximate. Eventually, CPT Gulotta instructed one of his officers, CPT Gulotta did not recall whom, to force entry into the apartment. The officer kicked the door and it opened almost immediately. CPT Gulotta did not recall if there was damage to the door as a result of the entry.

CPT Gulotta did not recall the full layout of the apartment but stated that the entry led immediately into the living room. CPT Gulotta walked into the living room and approached the window where he had observed § 87(2)(b) from the courtyard. CPT Gulotta did not provide specific instructions to the officers about what they should do next because he trusted them to secure the apartment of perpetrators

and conduct a protective sweep of plain-view areas of the apartment for firearms. The officers fanned out into the apartment, entered individual rooms, and conducted what CPT Gulotta believed, based on trust, was his intent as described above. CPT Gulotta heard § 87(2)(b) shouting, from behind, and turned to see her near the entrance to the apartment. CPT Gulotta did not know where § 87(2)(b) came from. Three to four additional females entered the apartment behind § 87(2)(b). CPT Gulotta remained in the living room instead of following the officers around the apartment because he wanted to ascertain what the dispute was about. § 87(2)(b) and her associates were shouting about the crowd downstairs and the dispute in which they were engaged. They did not complain about the officers' presence in the apartment. CPT Gulotta explained to § 87(2)(b) that there was a report of a firearm in her apartment. § 87(2)(b) denied having a firearm in the apartment and continued trying to explain the dispute. § 87(2)(b) was wearing little clothing and CPT Gulotta believed that it was evident that she did not have a firearm on her. CPT Gulotta also stated that he "might have had" a female officer come upstairs to conduct a frisk of § 87(2)(b). The officers returned to the living room after approximately five minutes and stated that the apartment was secure and there was no firearm. CPT Gulotta did not know for sure if this was the case because he did not directly observe what the officers did, but again, he trusted them. CPT Gulotta was not in a position to see whether the officers moved or lifted mattresses, entered dresser drawers, opened or entered closets, entered kitchen cabinets or drawers, or opened the medicine cabinet or toilet tank. CPT Gulotta did not see any officers lift sofa cushions in the living room or tear open the interior fabric of the sofa in order to search the sofa's interior. After receiving the report that the apartment was secured, CPT Gulotta did not attempt to procure a search warrant for the apartment because he did not believe that he had probable cause to do so.

At the conclusion of the protective sweep, § 87(2)(b) asked CPT Gulotta directly for his name, which he provided. CPT Gulotta did not hear her ask any of the other officers for their names or shield numbers and he never told her that she could only have his own. The officers left the apartment. Downstairs in the courtyard, CPT Gulotta and the other officers assisted in dispersing the crowd and eventually stabilized the courtyard.

Officers Not Interviewed

On the date of this incident, CPT Gulotta was in command of thirty uniformed police officers. When he responded to § 87(2)(b)'s apartment, he chose five to six of them, at random, and did not recall their identities at the time of his interview. § 87(2)(b) was only able to provide two physical descriptions of the five to ten officers who she alleged entered and searched her apartment, one of which was for CPT Gulotta himself. § 87(2)(g)

NYPD Documents (encl. 8a-9p):

SPRINT #§ 87(2)(b) (encl. 8a-8c)

On June 3, 2011 at 9:32 p.m., an unidentified female called Central from § 87(2)(b) to report a group of males causing problems with her brother outside of § 87(2)(b) in Brooklyn. She provided three descriptions: one male was wearing green and white; another male was wearing blue and white; and the third was wearing all black. The female caller hung up and provided no further information.

At 9:53 p.m., sector J resumed patrol. At 11:07 p.m., an unidentified female called Central from § 87(2)(b) (§ 87(2)(b)'s phone line) to report ten black males with knives in front of her building ringing the bell to her apartment, § 87(2)(b) on the § 87(2)(b) floor of § 87(2)(b). At 11:12 p.m., sector J and a sergeant's car responded to the location. At 11:13 p.m., sector H responded to the location. At 11:16 p.m., on the authority of the sergeant at the scene, it was reported that no knife was involved. At

11: 22 p.m. sectors A, J, H, and the sergeant's car reported a final disposition of unnecessary. At 11:22 p.m., on the authority of the sergeant, it was reported that the complainant stated that she never called the police.

SPRINT #§ 87(2)(b) (encl. 8e-8f)

On July 3, 2011, at 9:32 p.m., an anonymous female called 911 from § 87(2)(b) to report a perpetrator named § 87(2)(b). At 9:33 p.m., Central reported that the anonymous female caller was uncooperative and there was a large dispute in the background. At 9:34 p.m., a sergeant responded § 87(2)(b). At 9:35 p.m., Central called the anonymous female caller back but the call went to voicemail. At 9:35 p.m., the anonymous female called back and stated that someone had been shot. At 9:36 p.m. Central reported that another female called from § 87(2)(b) and stated that five females took firearms to § 87(2)(b) and that someone—gender not specified—had been shot. At 9:37 p.m., a lieutenant from the 73rd Precinct responded to the location. At 9:37 p.m., Central reported that the second female caller hung up and that a lot of people could be heard screaming in the background. At 9:37 p.m., Central reported that on the authority of the executive officer, aviation was requested by the lieutenant to canvass the location for a fleeing group of twenty males. At 9:46 p.m., the executive officer of the 73rd Precinct arrived at Georgia Avenue and New Lots Avenue. At 9:46 p.m., three individuals were stopped at Georgia Avenue and New Lots Avenue. At 9:50, Central reported that the 73rd Precinct executive officer confirmed shots fired, but no shots were fired by or at police officers. At 9:59 p.m., Central reported on the authority of the executive officer that no male was shot. At 9:59 p.m., the 73rd Precinct executive officer and a 73rd Precinct sergeant reported a disposition of 10-93Q or "other report prepared." At 10:07 p.m., a helicopter resumed patrol. At 10:21 p.m., a small ESU truck gave a final disposition of 10-90Y or "unnecessary." At 11:27 p.m., the 73rd Precinct executive officer reported a disposition of 10-82 or "verification/arrest" and stated two individuals were under arrest with "other reports prepared." At 11:57 p.m., the 73rd Precinct executive officer reported a final disposition of 10-92C or a "crime arrest."

Medical Records (encl. 7a-7t):

§ 87(2)(b)

On § 87(2)(b), § 87(2)(b) received treatment at § 87(2)(b).
§ 87(2)(b) was diagnosed with anxiety and was prescribed Maalox for her upset stomach.

Status of Civil Proceedings (encl. 10e):

§ 87(2)(b) has not filed a Notice of Claim with the City of New York as of February 24, 2012 with regard to the incident.

Civilian's Criminal History (encl. 10a-10d):

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)

Civilian's CCRB History (encl. 3a):

§ 87(2)(b) has filed the following CCRB complaints:

- § 87(2)(b)

Subject Officer's CCRB History (encl. 2a-2b):

CPT Gulotta has been a member of the service for twenty years and there are no substantiated CCRB allegations against him.

Conclusion

Identification of Subject Officer

CPT Gulotta acknowledged his presence at the scene and his interaction with § 87(2)(b) § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: CPT Joseph Gulotta entered § 87(2)(b) in Brooklyn.

It is undisputed that CPT Gulotta supervised the entry of § 87(2)(b) in Brooklyn. According to § 87(2)(b) she never dialed 911, had not been involved in any dispute (though, there were several disputes taking place outside her apartment building), and returned to her home to find officers engaged in kicking open the door to her apartment until they eventually forced entry.

According to CPT Gulotta, at the time of his arrival, there was a radio run for either a firearm or a dispute at the location. Additionally, several individuals outside § 87(2)(b) pointed at a § 87(2)(b) floor window, where a woman was yelling at them, and stated that she had pointed a firearm at them. The individuals told CPT Gulotta that she was in § 87(2)(b) SPRINT #§ 87(2)(b) reported five females at that apartment with firearms and alleged that someone was shot.

In determining whether exigent circumstances exist so as to permit a warrantless entry into an individual's home, the following factors must be considered: (1) the gravity of the offense; (2) whether there is reason to believe that the suspect is armed; (3) whether there is reasonably trustworthy information to believe that the suspect who committed the crime is involved; (4) whether there is a strong reason to believe that the suspect is in the premises being entered; and, (5) the likelihood that the suspect will escape if not swiftly apprehended. People v. Gordon, 110 A.D.2d 780 (NYS Supreme Court, App. Div., 2nd Dept.) (encl. 1a-1b).

§ 87(2)(g)

Allegation B – Abuse of Authority: CPT Joseph Gulotta searched § 87(2)(b) in Brooklyn.

According to § 87(2)(b) after the officers forced entry into the apartment, she directly observed officers search underneath her bed, lift the mattress, enter her closet, and open and search all of her dresser drawers. When the officers left, § 87(2)(b) observed evidence that the officers searched many other areas throughout her apartment. According to CPT Gulotta, he chose five to six officers to respond to the apartment with him, with the intention of having the officers under his command execute a protective sweep of the apartment for possible perpetrators and any firearms in plain view. Aside from directing an officer to force entry into the apartment, he did not provide his officers with specific instructions regarding what they should do inside the apartment, nor did he directly supervise their activities as they spread throughout the apartment. CPT Gulotta assumed that a protective sweep for

perpetrators and firearms in plain view is what occurred.

§ 87(2)(g)

Allegation C – Abuse of Authority: CPT Joseph Gulotta damaged § 87(2)(b) s property.
Allegation D – Abuse of Authority: CPT Joseph Gulotta refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(g)

According to § 87(2)(b) although she did not observe the officers tear the fabric layer, while inspecting the living room after the officers had searched it, she observed that the couch cushions of the sofa had been removed and the fabric layer between the top of the sofa’s frame and its interior had been torn, ostensibly in an effort to search inside the sofa frame. As the officers prepared to file out of § 87(2)(b) s apartment, she announced that she wanted all of their names. CPT Gulotta stepped forward, and told § 87(2)(b) that the only name she needed was his own, which he then provided.

According to CPT Gulotta, he did not see an officer search the living room or damage § 87(2)(b) s sofa in any way. § 87(2)(b) asked only CPT Gulotta for his name, which he provided, and he did not see her ask any of the other officers for their names. CPT Gulotta denied interceding in an attempt by § 87(2)(b) to obtain the names of other officers present at the scene.

§ 87(2)(g)

Team: _____

:

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date